

1 | there, how could they continue to add customers? Now, that's
2 | a question that never answered by me -- anyone could answer.
3 | And yet at the same time, they were filing for more
4 | transmitters and locations on a frequency that they said was
5 | already busied out. And my question was is there two sets of
6 | -- is there two sets of traffic studies by RAM? One for us,
7 | for us not to get it, and one for them to give to NABER so
8 | they could continue to add more customer base and
9 | transmitters. And I still don't know that question.

10 | Q So, when you got copies of RAM's traffic studies,
11 | you sent them to customers to show them that if you use PCP
12 | service you're going to be sharing a busy frequency? Is that
13 | what you're saying?

14 | A To my understanding, those are public documents and
15 | I was allowed to send them -- do with them what I want.

16 | Q But is the answer to my question yes then?

17 | A Did I send them? It's very possible I could have
18 | sent them. It's very possible.

19 | Q And is it also possible that you told potential
20 | customers or existing RAM customers that RAM would be required
21 | to limit its transmissions to only three minutes at a time and
22 | then cease transmitting for three minutes?

23 | A At that time, if those things were said -- because
24 | see, we were completely under the understanding up till a
25 | letter from Mr., and I will probably pronounce his name

1 | incorrectly, Shiben or Shiben --

2 | JUDGE CHACHKIN: Shiben.

3 | MR. RAYMOND: Shiben? That there was a three-
4 | minute, three-minute clause that you could only page for three
5 | minutes, you must come down, look to see if anyone else wants
6 | to get -- then you go up. And what small knowledge I had of
7 | licensing even back then, as Mr. Walker testified, that they
8 | were FB6C's which was for-profit paging interconnected. I
9 | would have probably if you have all the documents would have
10 | enlisted that paragraph in, in the, in the, in the rules that
11 | the -- the Private Radio Bureau's rules of the three-minute
12 | time limit.

13 | BY MR. JOYCE:

14 | Q Do you, do you recall ever trying to get the
15 | business of the West Virginia police department, Mr. Raymond?

16 | A What -- which West Virginia police department, sir?
17 | Are we talking about the West Virginia State Police?

18 | Q In the, the Barboursville office.

19 | A No, sir. No.

20 | Q What about the Huntington, West Virginia drug unit?

21 | A No, sir. What you have to realize, and maybe this,
22 | this will help you, I work in the corporate offices in
23 | Charleston. I, I -- and number one, I'm not a salesperson. I
24 | do not go out and, and call on people. That being Huntington,
25 | number one, and where me not selling per se on a day-to-day

1 basis, I, I could not tell you that.

2 Q You don't call on people, but you fax them documents
3 every once in a while?

4 MR. HARDMAN: I object, Your Honor.

5 JUDGE CHACHKIN: Sustained. Is there something
6 wrong with competing? I thought that's the way the American
7 way was. I don't understand where we're going with this.
8 Where are we going with this? What does it have to do with
9 the issues that the Bureau added -- put in here? Is there
10 something wrong with competing --

11 MR. JOYCE: Your Honor, do I --

12 JUDGE CHACHKIN: -- trying to get customers?

13 MR. JOYCE: Am I required to, to telegraph my cross-
14 examination?

15 JUDGE CHACHKIN: Well, I, I want to know -- look,
16 I've allowed you to go on with this for a while, but I want to
17 know what this has to do with the issues in this case. As far
18 as I know, there's no issue here charging any violation the
19 fact they were attempting to compete with a competitor.

20 MR. JOYCE: There is most decidedly an issue, Your
21 Honor. It's been designated that Capitol applied for a PCP
22 license of the purpose of causing harmful interference to RAM
23 Technologies.

24 JUDGE CHACHKIN: But you haven't put in any evidence
25 of that yet. All you're saying is they were competing with

1 their, their -- RCC was competing. Now, what -- I don't
2 what's -- anything wrong with that. And I assume RAM was also
3 competing, was trying to take customers away from the RCC for
4 their, for their private paging service of, of Capitol. Are
5 we going to go into that now? The fact that there's different
6 entities here competing to the extent that there is
7 competition here, an RCC, we have a PCC and apparently they're
8 competing for customers.

9 MR. JOYCE: Your Honor, if I can't ask the COO of
10 the company applying for this PCP license what his purposes
11 were in applying for it, then you might as well eliminate one
12 of these issues that are designated in the --

13 JUDGE CHACHKIN: I have not prevented you from
14 asking that question, but all you're asking about was did you
15 solicit to X, did you solicit Y for business. What does that
16 have to do with anything?

17 MR. JOYCE: The nature of the solicitations, Your
18 Honor, I think are perfectly relevant and germane.

19 MR. HARDMAN: Your Honor, I, I would also point out
20 that this witness in his direct testimony spoke directly to
21 that issue. Now, I have no objection if Mr. Joyce wishes to
22 test the credibility of this witness. I do object if he wants
23 to argue with him about his testimony. There is direct
24 testimony on that point as to the motivation and reason why
25 the -- Capitol applied for its PCP license and the cross-

1 examination should be, you know, confined to the, the
2 appropriate ways of testing that if he, if he wishes to do so.

3 MR. JOYCE: I don't think I have to listen to
4 Mr. Hardman what is the proper scope of cross-examination.

5 JUDGE CHACHKIN: Well, I -- all I want to know is
6 how is this relevant to the issues in this case, this
7 continued --

8 MR. JOYCE: As I said --

9 JUDGE CHACHKIN: -- inquiry about their attempt to
10 solicit customers.

11 MR. JOYCE: No, Your Honor. What's relevant is the
12 manner in which they solicited customers by alluding to the
13 fact that it was inferior service, by sending copies of
14 documents that were submitted to NABER that were not publicly
15 available that indicated how much traffic was on the
16 frequency. And I, I will be able to tie this up later in my
17 cross-examination, I can assure, Your Honor.

18 JUDGE CHACHKIN: Well, I'll permit you to go on a
19 little longer but at some point you're going to have to get to
20 the issues in this case.

21 BY MR. JOYCE:

22 Q Mr. Raymond, I presume that you're the person who
23 calls the shots for Capitol's advertising campaigns.

24 A Yes, sir.

25 Q So, it was your idea to, to launch the advertising

1 campaign in 1989 and 1990 that referred to PCP service as
2 party-line service?

3 A That's what I referred to it as.

4 Q And you compared it to RCC service as RCC being
5 guarded service?

6 A That is my terminology, yes, sir.

7 Q Now, here in Washington, D.C., Mr. Raymond, not too
8 many people are familiar with the term party-line service
9 unless like my wife they were fans of "Petticoat Junction" or
10 "Green Acres." But in West Virginia and Kentucky, people are
11 pretty familiar with that term I presume, correct?

12 A Yes, sir.

13 Q And when you refer to party-line service you're
14 referring to what used to be basically the cheapest form of
15 telephone service, correct?

16 A Don't say that. I wasn't, I wasn't insinuating
17 cheap.

18 Q Were you insinuating that it's the type of service
19 where other people can listen in on your communications?

20 A No, sir.

21 Q Well, then what is it exactly that you meant by
22 party-line service?

23 JUDGE CHACHKIN: What are we talking about? What
24 time period are we talking about now?

25 MR. JOYCE: In 1989 and '90.

1 JUDGE CHACHKIN: Well, they filed in late-March
2 1990. Are we talking about a time when they filed for, for
3 the private radio?

4 MR. JOYCE: They filed in late-1989 for private
5 radio, Your Honor.

6 JUDGE CHACHKIN: So? All right. You can answer the
7 question.

8 MR. RAYMOND: Could you repeat it for me again,
9 please?

10 BY MR. JOYCE:

11 Q What did you mean when you say PCP service is like
12 party-line service?

13 A Well, not being from the coal fields, but my
14 grandparents had a farm and it, it was in a remote area when I
15 was a child. And any time that I, I went to their home before
16 I could dial out on the phone I had to pick it up and listen
17 to see if the people on down the road were on it. It was a
18 shared -- it had different even type of ringing so you would
19 know that that ringing is for me. So, there would be maybe --
20 I mean, I don't know, I didn't work for the phone company, but
21 I'm, I'm sure there was many, many people that were on the
22 same line. When you picked up that line you couldn't use it
23 till they got off. That's my terminology of the party line.

24 JUDGE CHACHKIN: Well, according to this designation
25 order, it says the applications were filed in late-March 1990.

1 Is that not right?

2 MR. HARDMAN: If, if that's what the hearing
3 order --

4 JUDGE CHACHKIN: That's what the designation order
5 says. What are we talking about '89 for? The designation
6 order says that the PCP applications were filed by Capitol for
7 Huntington and Charleston in late-March 1990.

8 MR. JOYCE: Mr. Raymond's direct testimony at
9 page 5, first paragraph, Your Honor, says, "At the time I
10 decided to get Capitol into the PCP business which was the
11 latter part of 1989."

12 JUDGE CHACHKIN: Yeah? And what are we talking --

13 MR. JOYCE: I believe we, we --

14 JUDGE CHACHKIN: What are these advertises -- what
15 are these advertises you're talking about?

16 MR. JOYCE: That's where I'm getting, Your Honor.
17 I'm about three questions behind you.

18 JUDGE CHACHKIN: Go ahead.

19 MR. JOYCE: Thank you, Your Honor.

20 BY MR. JOYCE:

21 Q All right. Now, Mr. Raymond, so your direct
22 testimony says that you were interested in getting into PCP in
23 1989. The fact of the matter is, you're saying in your
24 promotion material and to prospective customers that PCP
25 service is party-line service meaning whatever. Meaning that

1 people can listen in on your conversations or it's a shared
2 service, it's in some way inferior to RCC service, correct?

3 A Shared service. Not listening in. Shared service I
4 think is, is the key word.

5 Q And that campaign continued into 1990 did it not,
6 Mr. Raymond?

7 A Oh, I'm sure.

8 Q And in fact, in that campaign there is an
9 implication that there would be no protection for your
10 communications on a PCP frequency. Isn't that true?

11 A I didn't see any implication in that, sir.

12 Q Well, take a look if you will, Mr. Raymond, at
13 Capitol Exhibit No. 2, page 33.

14 A All right, sir. I'm here.

15 Q You see at the top of the page is RAM pagers' ad and
16 at the bottom is, is yours? This is a "Yellow Pages"
17 directory ad I presume.

18 A Yes, sir.

19 Q And you see where it says in your ad, "Guarantee
20 your pages with a guarded system"?

21 A Yes, sir.

22 Q "Not a party line"?

23 A That is correct, sir.

24 Q Now, I take it you're suggesting that the converse
25 is true as well, that there is no guarantee that you would get

1 your page with the PCP system. Isn't that true?

2 A It is saying that a RCC frequency is superior to a
3 private-carrier frequency.

4 Q My question was, isn't the implication of this ad
5 that there would be no guarantee that you would get your page
6 with a PCP system? Isn't that true, Mr. Raymond?

7 A No, sir. If you would read the contents it says,
8 "Guarantee your pages with a guarded system, not a party
9 line."

10 Q And weren't you telling customers there, there would
11 be no guarantee that you would get your pages if they used
12 RAM's PCP system? Isn't that true?

13 A I am saying there is a guarded frequency unshared.
14 It's less likely to -- for you not to get your page than one
15 that is shared even in a timely manner. Like when I was at my
16 grandparents I had to wait on those people to get off the
17 phone because the phone company made you do it right. So I
18 had to wait till they finished their conversation and hung up.
19 Then I could dial out.

20 Q And if you turn to next page, Mr. Raymond, page 34,
21 the right-hand side there's a Capitol Paging ad?

22 A Um-hum.

23 Q And you see it has the same advertising theme, "Use
24 our guarded frequency, not a party line." Do you see that?

25 A Sir, I, I won't argue one point that that wasn't

1 your byline. Yes, sir, we used that.

2 Q I understand. But just so we clarify what the dates
3 are. If you would take a look at the top of this newspaper,
4 that's January 1990, correct?

5 A I can't read the print, but I -- it looks that way,
6 yes, sir.

7 Q Now, you would know this better then, then I do, Mr.
8 Raymond. "Yellow Pages" ads, they stay in for quite some
9 time, don't they, more than a month?

10 A Yes.

11 Q I mean, upwards of a year?

12 A I would -- every year you renew that agreement, yes,
13 sir.

14 Q And they're fairly expensive aren't they?

15 A Depending on what market they are.

16 MR. HARDMAN: Your Honor, I'm going to renew my
17 objection to this line of questioning on the grounds of
18 relevance again. I would refer Your Honor to Exhibit
19 CAP No. 6, page 2, which is the initial FCC ruling on RAM's
20 protest against Capitol's PCP application. And in the
21 paragraph at the top of the page a finding is made "that
22 Capitol's characterization of PCP frequencies as party lines
23 and reported representations that sharing my result in
24 congestion to the detriment of RAM's customers do not
25 misrepresent the, the potential consequences of shared-

1 spectrum use." And it's, it's -- there is nothing in the
2 hearing designation order that suggests that, that exploring
3 the issue of, of Capitol's advertising is relevant to the
4 issues in this case.

5 MR. JOYCE: Capitol's intent in applying for this
6 license is very much at issue, Your Honor.

7 JUDGE CHACHKIN: Well, let's get to it then.

8 MR. JOYCE: Thank you.

9 BY MR. JOYCE:

10 Q So, Mr. Raymond, some time in the latter part of
11 1989, according to your direct testimony, despite the fact
12 that Capitol had just taken out this expensive "Yellow Pages"
13 director ad that likened PCP service to party-line service,
14 and despite your newspaper ads that said that, and despite
15 telling customers about this three-minute limitation on PCP
16 communications, and despite telling your customers that RCC
17 service is guarded service and PCP service is, is not, despite
18 all that, you applied for PCP license. Isn't that correct?

19 A I'm having a problem following of all your despites.
20 But I will say we applied for the frequency, yes, sir.

21 Q And you didn't apply for just any PCP frequency, you
22 applied for 152.48, the one that RAM just happened to be
23 using, correct?

24 A I applied for a high-powered frequency which the
25 only one available happened to be 152.48 which maybe I'm --

1 that wasn't RAM's, it was shared. So, I don't think they
2 owned it, okay? I mean, it wasn't guarded for them. It was
3 the only high-powered frequency available at that time so
4 naturally we wanted a high-powered frequency, yes.

5 Q And this -- despite the fact that you had already
6 seen traffic studies that showed that the frequency was very
7 heavily loaded, correct?

8 A I'd seen their traffic studies. I, I'm going to
9 assume at that time -- and I'm going to go with that I had
10 seen that it had been filed with NABER. I had -- so, I don't
11 know if I'd seen it at that time. I didn't see a traffic
12 study till after we had applied for it. Because this is one
13 of the things: RAM came back and alleged that it was too busy
14 so how could I see one of their traffic studies prior to us
15 filing for -- I don't think they would supply us with that
16 type of information, do you?

17 Q Now, page 6 of your direct testimony, Mr. Raymond,
18 where you say that Capitol sent your application to NABER,
19 that's N-A-B-E-R, for coordination in December of 1989,
20 correct?

21 A Yes, sir.

22 Q And you say here that you had several phone
23 conversations with a NABER coordinator because you said that
24 RAM was claiming that 152.48 was already too busy to let
25 Capitol get on it?

1 A Yes, sir.

2 Q Therefore, at NABER's request you had additional
3 monitoring of the channel performed?

4 A Yes, sir.

5 Q Which confirmed your earlier observation that there
6 was enough channel time available?

7 A Yes, sir.

8 Q So, you're saying that though you did channel
9 monitoring of RAM's frequency prior to your getting a license,
10 at this time you had not seen RAM's traffic study? Is that
11 what you're saying?

12 A I, I believe their traffic studies are in here. We
13 can refer to those dates because I, I don't know when RAM
14 supplied their traffic studies.

15 Q So, it is possible that you did see those studies
16 prior to filing your PCP application?

17 A I don't know. We need to check the dates and then
18 I'll be glad to answer that.

19 JUDGE CHACHKIN: Do we have the date of the
20 study -- traffic study?

21 MR. JOYCE: I'm reluctant to say that we do, Your
22 Honor, because the only -- studies that we have are behind
23 Capitol Exhibit 18.

24 MR. HARDMAN: That's not true, Your Honor. That
25 was, that was the first set of data and then throughout RAM's

1 filings that the Commission had, had kept doing different
2 studies. There's -- I believe there's one attached as part of
3 Exhibit CAP 2, I think there's one -- I believe there's one in
4 the back of CAP 4.

5 MR. JOYCE: I appreciate the clarification,
6 Mr. Hardman.

7 MR. HARDMAN: CAP 5, I believe.

8 MR. JOYCE: My only -- my point is, Your Honor, not
9 that behind Tab 18 -- my point is we have no way of
10 guaranteeing that there weren't earlier traffic studies than
11 the ones that have been presented.

12 JUDGE CHACHKIN: Well, you represent RAM. If you
13 have some earlier traffic study show it to the witness.

14 MR. JOYCE: But --

15 JUDGE CHACHKIN: -- want the witness to guess about
16 traffic studies. He says he doesn't know. If you got some
17 earlier traffic studies which you believe he might have
18 looked at, show it to him. If not, why are we asking these
19 questions?

20 BY MR. JOYCE:

21 Q At the time that you were applying for your PCP
22 license, Mr. Raymond, we established earlier that you had
23 something in the neighborhood of 2- to 3,000 paging units on
24 your RCC channel?

25 A Between 28- and 3,000 if it was at the end of '89,

1 yes, sir.

2 Q So, obviously capacity was not a problem on your RCC
3 channel at that time. Isn't that fair to say?

4 A No, it's not fair to say.

5 Q It's not fair to say?

6 A No, sir.

7 Q We had testimony earlier in the week that a RCC
8 paging channel could hold somewhere in the neighborhood of 50-
9 to 100,000 paging units.

10 A I think that was Mr. Moyer's testimony and I'm not
11 an expert by any means on what a paging frequency can handle.
12 I do not what -- how many numbers our terminal can handle.
13 But all -- there, there are so many variables. I don't
14 believe Mr. Moyer or you, sir, know how many voice pagers we
15 had on our system or any other thing regarding that. And all
16 they -- all that determines is how busy your frequency is. If
17 I had 2,800 voice pagers, I think Mr. Moyer would probably
18 agree with this, we'd be real, real busy.

19 Q All right. Mr. Raymond, I'll, I'll accept that.
20 Are you saying now that in addition to the other reasons that
21 you've listed in your direct testimony that channel capacity
22 is another reason why you're applying for us of this PCP
23 channel?

24 A No, I'm not, I'm not saying that. I'm just saying
25 that could have been one of the variables.

1 Q Well, that's what I'm asking, Mr. Raymond. And it's
2 my understanding that with only 3,000 paging units that you
3 have plenty of excess capacity on your RCC channel. Isn't
4 that true?

5 A Well, sir, once again, that's your understanding as
6 an attorney, okay? My understanding as being in the paging
7 industry, if you run a tremendous amount of voice that takes
8 up a lot of time you could have quite a bit of capacity taken
9 up even with 1,000 pagers.

10 Q But in your direct testimony which runs in the
11 neighborhood of 20-some-odd pages which I presume you spent a
12 lot of time going over with Mr. Hardman, you don't list
13 channel capacity as being one of those reasons. Isn't that
14 true?

15 A It wasn't the main reason. I'm just saying it could
16 have been one of the variables, but not the main reason, sir.

17 Q Certainly not one that you put down in your direct
18 testimony.

19 A Wasn't that important. It was a variable in the, in
20 the decision.

21 Q Is it your testimony, Mr. Raymond, that it was just
22 a coincidence that you were applying for the 152.48 frequency
23 about the same year that RAM began its PCP business?

24 A No. You asked me a similar question earlier and I
25 said we applied for 152.480 because it was a high-powered

1 frequency, the only high-powered frequency at that time that
2 was available, the only frequency that could be linked up for
3 nationwide paging at that time.

4 Q But Capitol had been in business for 30 years and
5 not applied for this frequency prior to 1989, Mr. Raymond.
6 Isn't that true?

7 A To my knowledge, prior to that -- you have to
8 realize I came in 1989, all right? I don't even know if PCPs
9 were available in 1986 or '87. I wasn't in that industry,
10 sir. My marketing decision in 1989 as being in the paging
11 industry now was that we wanted 152.480, a high-powered, a
12 high-powered, nontariffed, nonregulated. Just like Mr. Moyer
13 testified why didn't he put in the RCC, because it takes a
14 long time when you're dealing with the FCC. We've had an
15 application in for two and a half years and still haven't got
16 it. It takes a longer time when you're dealing with a
17 regulated state and the Public Service Commission in West
18 Virginia. If we had applied for a RCC different frequency,
19 which I'm not even sure was available or not because that
20 wasn't my thrust, we still may not have had it due to the FCC,
21 due to the Public Service Commission. Mr. Moyer basically
22 said it. It was quick, you don't want long on transmitters,
23 it's not expensive, the engineering isn't as expensive, you
24 can put more transmitters in quickly. It was a wonderful
25 decision.

1 Q Mr. Raymond, prior to 1989 you had no PCP experience
2 whatsoever, correct?

3 A Prior to my coming with Capitol Radiotelephone I had
4 no private-carrier paging experience.

5 Q And prior to 1989 Capitol did not apply for a PCP
6 license, correct?

7 A I'm not quite sure because once again, I wasn't
8 employed by them prior to that. Now, there was a -- some
9 other type of license that might not have been an RCC
10 available, I, I don't know. I don't know what they did before
11 I came, sir.

12 Q I'm going to ask you this one more time,
13 Mr. Raymond, because you haven't answered my question. Is it
14 your testimony that it's just a coincidence that in 1989, the
15 same year that RAM started its PCP business, Capitol got into
16 the PCP business?

17 A No. If RAM had not been in the business and someone
18 else had, if there was other private carriers in that market,
19 I wanted to be able to compete, sir, apples to apples, okay?
20 If I am regulated and I have all these rules and regulations
21 from the government and from the West Virginia Public Service
22 Commission and someone can come in to the town and absolutely
23 undercut us by, you know, pricing, allowed to put transmitters
24 on quickly, allowed to get ranges for people where they're
25 needed quickly with absolutely -- practically no rules or, no

1 rules or regulations by the West Virginia Public Service
2 Commission and very little as it turns out by the government,
3 I want that frequency, sir.

4 Q So, although you testified on Friday that you knew
5 nothing about RAM's 152.48 frequency operations, I gather that
6 you were very familiar with RAM's PCP operations. Isn't that
7 true?

8 A Not their operations.

9 Q I mean, for instance you were -- you had been doing
10 traffic studies so you knew how busy they were using that
11 frequency, correct?

12 A No, sir. No traffic studies did I ever perform
13 until we applied for the license which I believe is required
14 by NABER when you apply for the license. Matter of fact,
15 Mrs. Watson -- Gloria Watson even went on and explained to me
16 how to do this.

17 Q And in fact, your attorney sent you copies of RAM
18 traffic reports which indicated how many paging units they had
19 on the air. Is that correct?

20 A I don't know who sent them, whether they came
21 directly from NABER, from the attorney. I, I couldn't tell
22 you where they came from. We received them, yes, sir.

23 Q Okay, and those traffic studies would have indicated
24 how many paging units RAM had on that frequency, correct?

25 A If I could look at one of these studies I --

1 Q Please do.

2 A Which, which exhibit -- wasn't it 18, I believe?

3 Q Well, why don't we take a look at Capitol

4 Exhibit 2, page 28?

5 A Okay. All right, sir.

6 Q There's a bar graph.

7 A Yes, sir.

8 Q And if you'd take a look in February of 1990, it

9 indicates 5,578 paging units.

10 A That's what it indicates.

11 Q Okay, and this was attached as part of a -- RAM's

12 petition to deny Capitol's PCP application so presumably your

13 attorney, Mr. Hardman, sent this to you so you would have seen

14 this at some point, correct?

15 A I have seen it, yes, sir. Absolutely.

16 Q So, I presume it was a concern to you, Mr. Raymond,

17 that after only one year in business RAM Technologies had put

18 in service more paging units than Capitol had in service after

19 30 years in business?

20 A No, sir, no concern to me.

21 Q You weren't concerned about RAM being a competitor

22 at all faced with these statistics?

23 A Well, sir, let me explain how I looked at it, and,

24 and this is my opinion and whether other marketing people

25 agree or not it's entirely up to them. This is what I've done

1 all my life. The information that was given in conversation
2 by people that RAM Page was going toward and it seemed to be
3 mostly in the Huntington/Ashland market, that was their
4 heaviest area. As a matter of fact, I'm not even quite sure
5 when RAM Paging opened its office in Charleston. That there
6 was quite a big war on down in, in Huntington and we, we
7 discussed this in great detail and we decided we would remain
8 with our dignity. We would not drop our prices because, see,
9 my opinion is I know what my product is worth and I will
10 charge you accordingly. As a matter of fact, I'm not allowed
11 to charge you -- evidently they know what theirs is worth and
12 they can charge accordingly. Now, I would rather have 3,000
13 units at \$30 a unit than 5,578 at five or six dollars a unit.
14 Now, I don't know if that's what all their prices were, okay?
15 But by -- another RCC in the area was complaining to us that
16 they would put a bid in at six dollars and still lose it on
17 price. So, no, I'm not concerned about volume. I'm concerned
18 about profit, dollar line -- is this also another question I
19 wondered, it's not explained, and it was never answered, I
20 never asked it. Mr. Moyer hooked up with Network USA. How
21 many of these paging if it's 5,578 pagers were coming from
22 other areas? I have no knowledge how many pagers Mr. Moyer
23 has today. And truthfully, sir, I don't care.

24 Q Now, Mr. Raymond, you testified a few minutes ago
25 that with your 3,000 paging units on your RCC channel assuming

1 that many of them were voice paging units, that if they were
2 voice paging units your channel could indeed have been fairly
3 congested. Isn't that what you just testified?

4 A Yes, sir. If there was quite a few voice paging.
5 And when I started there was quite a bit of voice paging.
6 Digital had only been implemented and probably a few years
7 prior most people were familiar with the voice pager and
8 that's what they were more comfortable with. It took some
9 time for Capitol's employees -- because we believe in
10 educating our customers to give them the best pager that fits
11 their needs whether it be alpha, numeric, voice, tone or
12 whatever. A delivery man probably needs a voice pager so he
13 doesn't have to call in so they can tell him he forgot
14 something at the other one. So, we started educating our
15 customers in the benefits of digital display. Today we do
16 have more digital in our air time than voice. The industry is
17 taking a turn.

18 Q Are you finished?

19 A Yes.

20 Q All right. Would you turn the page, Mr. Raymond, to
21 page 29 of that exhibit? Would you take a look at that time
22 chart that shows channel usage by pager time? Now, of the
23 pager times displayed there which is the most --

24 A Well, I would have to say they, they have more voice
25 on at that particular hour of that particular day.

1 Q And the figure says "1,872." Isn't that correct?

2 A Um-hum.

3 JUDGE CHACHKIN: You have to say yes.

4 MR. RAYMOND: Yes, sir. I'm sorry.

5 BY MR. JOYCE:

6 Q So, it's fair to say that based on your testimony,
7 your knowledge of how voice pages take up more air time than
8 others, it would appear that indeed that frequency was very
9 busy in February of 1990. Isn't that correct?

10 A At that particular hour, yes, sir.

11 JUDGE CHACHKIN: When was study prepared -- this
12 traffic study we're talking about here?

13 BY MR. JOYCE:

14 Q It says down at the bottom there, "February 1990."
15 Do you see that, Mr. Raymond?

16 A Yes, sir, I do.

17 JUDGE CHACHKIN: Well, when was it supplied to the
18 Commission or to the parties?

19 MR. JOYCE: I believe the certificate of service is
20 March 29, 1990, for this.

21 JUDGE CHACHKIN: So, this was before -- this was
22 after they had made a decision to file for PCP.

23 MR. JOYCE: Prior to the grant of that application.

24 JUDGE CHACHKIN: I understand. But it was after.
25 It had nothing to do with their -- they couldn't have used

1 | this in making their determination of whether or not to file.

2 | So, why are we dealing with it now?

3 | MR. JOYCE: It's not a question of whether or not to
4 | file, Your Honor. There are plenty of options --
5 | opportunities along the way to amend off to another frequency.

6 | JUDGE CHACHKIN: Well, we're not getting to that.
7 | We're dealing I thought with --

8 | MR. JOYCE: Well, you're asking me to get ahead of
9 | my cross-examination.

10 | JUDGE CHACHKIN: Well, but I thought you were
11 | dealing with their motive in filing the application. If this
12 | traffic study was not given to them until after they filed the
13 | application then obviously it had nothing to do with --
14 | couldn't have been considered by them in making the decision
15 | to file for the application.

16 | MR. JOYCE: The issue more --

17 | JUDGE CHACHKIN: Now you're dealing with amendments.

18 | MR. JOYCE: No, Your Honor. The issue more broadly
19 | is not just the filing of the application, but the prosecution
20 | of the application.

21 | JUDGE CHACHKIN: Maybe -- whatever the issue may be.
22 | The question is I thought you were asking him questions about
23 | his reasons for filing an application and I thought that
24 | somehow this traffic study was available to him at the time he
25 | filed this application. But apparently that's not the case.